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EXAMINER

COLETTA, LORI L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

10/021,572

Applicant(s)

GAGNE, MAURICE

Examiner

Lori L. Coletta

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-17 and 20-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-42 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 14, 15, 20 and 29-36 is/are rejected.
- 7) ☒ Claim(s) 3, 7-13, 16, 17 and 21-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11-15-02 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese reference 61-12422.

Regarding claim 1, Japanese reference '422 discloses a windshield assembly comprising a windshield panel (1) movable between an operative position (Fig. 10) and an inoperative position (Fig. 9); and a coupling assembly (4) coupled to said windshield panel, said coupling assembly at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein the inoperative position includes a forward position in which the windshield panel is displaced from the operative position in a direction facing a windward side of said windshield panel and a rearward position in which the windshield panel is displaced from the operative position in a direction facing away from the windward side of said windshield panel.

Regarding claim 2, Japanese reference '422 discloses the windshield assembly wherein said coupling assembly (4) includes a first end defining a mounting bracket (25) and a second end defining a pivot point (12) about which the windshield panel pivots in Figure 2.

Art Unit: 3612

3. Claims 1, 2, 6, 15, 16, 20 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiley 4,379,584.

Regarding claim 1, Wiley '584 discloses a windshield assembly comprising a windshield panel (20) movable between an operative position (Fig. 1) and an inoperative position (Fig. 3); and a coupling assembly (64) at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein the inoperative position includes a forward position in which the windshield panel is displaced from the operative position in a direction facing a windward side of said windshield panel and a rearward position in which the windshield panel is displaced from the operative position in a direction facing away from the windward side of said windshield panel.

Regarding claims 2 and 16, Wiley '584 discloses the windshield assembly, wherein said coupling assembly (64) includes a first end defining a mounting bracket and a second end defining a pivot point about which the windshield panel pivots in Figure 3.

Regarding claims 6 and 20, Wiley '584 discloses the windshield assembly, wherein said windshield panel is made of polycarbonate plastic (column 1, lines 50-55).

Regarding claim 15, Wiley '584 disclose a vehicle comprising a frame; at least one ground contacting element suspended from the frame to provide an interface between the frame and ground; a handlebar operatively connected to the ground contacting element to steer the vehicle; a seat positioned on the frame; and a windshield assembly mounted on the frame and including a windshield panel (20) movable between an operative position (Fig. 1) and an inoperative position (Fig. 3), and a coupling assembly (64) between the handlebar and the windshield panel, said coupling assembly includes at least one coupling member that enables

Art Unit: 3612

said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a forward position in which the windshield panel is displaced from the operative position in a direction facing away from the seat and a rearward position in which the windshield panel is displaced from the operative position in a direction toward the seat.

Regarding claim 31, Wiley '584 discloses the vehicle, wherein at least a portion of the windshield panel (20) is transparent.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 61-12422 in view of Sykora 3,819,226.

Regarding claim 6, Japanese reference '422 discloses the windshield assembly.

However, Japanese reference '422 does not show wherein said windshield panel is made of polycarbonate plastic.

Sykora '226 teaches a windshield made of polycarbonate plastic (column 4, lines 5-8).

Regarding claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the windshield panel of the windshield assembly of Japanese reference '422 made of polycarbonate plastic, as taught by Sykora '226 in order to provide good impact strength and retains its physical properties at low temperatures.

Art Unit: 3612

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley 4,379,584 in view of Japanese reference 61-12422.

Regarding claim 29, Wiley '584 discloses the vehicle but does not show wherein said ground contacting element include a pair of front wheels and a pair of rear wheels suspended from the frame and the vehicle is an all terrain vehicle.

Japanese reference '422 teaches a front window through coupling means having rotatable function in the back/fro direction on an all terrain vehicle.

Regarding claim 29, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Wiley '584 an all terrain vehicle, as taught by Japanese reference '422, in order to improve the aerodynamic characteristics to the all terrain vehicle.

7. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley 4,379,584 in view of Sykora 3,819,226.

Regarding claim 30, Willey '584 discloses the vehicle but does not show wherein the ground contacting element includes a pair of front skies and a drive belt and said vehicle is a snowmobile.

Sykora '226 teach a snowmobile windshield.

Regarding claim 30, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the vehicle of Wiley '584 a snowmobile, as taught by Sykora '226, in order to reduce breakage and improve safety of the windshield on the snowmobile.

Art Unit: 3612

8. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huston 5,816,757 in view of Japanese reference 61-12422.

Regarding claim 32, Huston '757 discloses a method for transporting a vehicle, the vehicle comprising a windshield assembly mounted on a frame of said vehicle and including a windshield panel, the method comprising loading the vehicle on a trailer in Figure 1.

However, Huston '757 does not show pivoting the windshield panel from an operative position into an inoperative position, wherein said inoperative position includes a rearward position in which the windshield panel is displaced from the operative position in a direction facing from a windward side of said windshield panel such that the windshield panel is substantially horizontal; and transporting said vehicle such that wind pressure on said windshield panel is substantially reduced.

Japanese reference '422 teaches pivoting the windshield panel (1) from an operative (Fig. 10) position into an inoperative position (Fig. 9), wherein said inoperative position includes a rearward position in which the windshield panel is displaced from the operative position in a direction facing from a windward side of said windshield panel such that the windshield panel is substantially horizontal. If the vehicle was transported on a trailer with the windshield panel in the inoperative position, then the wind pressure on said windshield panel is substantially reduced.

Regarding claim 32, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the method of transporting the vehicle of Huston '757 pivoting the windshield panel from an operative position into an inoperative position, wherein said inoperative position includes a rearward position in which the windshield panel is displaced

Art Unit: 3612

from the operative position in a direction facing from a windward side of said windshield panel such that the windshield panel is substantially horizontal, as taught by Japanese reference '422, in order to improve the aerodynamic characteristics.

Regarding claim 33, Huston '757, as modified, discloses the method for transporting a vehicle, wherein said vehicle is an all terrain vehicle.

Regarding claim 34, Huston '757, as modified, discloses the method for transporting a vehicle, wherein said vehicle is a snowmobile.

9. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huston 5,816,757 in view of Wiley 4,379,584.

Regarding claim 35, Huston '757 discloses an all-terrain vehicle (18) comprising a frame; a pair of front wheels and a pair of rear wheels suspended from the frame; an engine operatively coupled to provide motive force to at least one of the pair of front and rear wheels and selectively operable to provide motive force to both the front and rear pairs of wheels; a handlebar operatively connected to the front pair of wheels to steer the vehicle; a straddle-type seat positioned on the frame; a pair of footrests, one on each lateral side of the straddle-type seat; and a windshield assembly mounted on the frame.

However, Huston '757 does not show a windshield panel movable between an operative position and an inoperative position, and a coupling assembly between the handlebars and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position in which the windshield panel is displaced from the operative position in a direction facing away from a windward side of said



Art Unit: 3612

windshield panel, wherein the windshield panel is substantially horizontal and adjacent the straddle-type seat such that wind pressure on said windshield panel is substantially reduced during transport of the vehicle.

Wiley '584 teaches a windshield panel movable between an operative position and an inoperative position, and a coupling assembly between the handlebars and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position in which the windshield panel is displaced from the operative position in a direction facing away from a windward side of said windshield panel, wherein the windshield panel is substantially horizontal and adjacent the straddle-type seat such that wind pressure on said windshield panel is substantially reduced during transport of the vehicle.

Regarding claim 35, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the all-terrain vehicle of Huston '757 with a windshield panel movable between an operative position and an inoperative position, and a coupling assembly between the handlebars and the windshield panel, said coupling assembly including at least one coupling member that enables said windshield panel to move between the operative position and the inoperative position, wherein said inoperative position includes a rearward position in which the windshield panel is displaced from the operative position in a direction facing away from a windward side of said windshield panel, wherein the windshield panel is substantially horizontal and adjacent the straddle-type seat such that wind pressure on said

• Art Unit: 3612

windshield panel is substantially reduced during transport of the vehicle, as taught by Wiley '584, in order to reduce breakage and improve safety of the windshield assembly.

Regarding claim 36, Huston '757, as modified, discloses the all-terrain vehicle, wherein a width between the front pair of wheels is greater than a width of the handlebar.

***Allowable Subject Matter***

10. Claims 37-42 are allowed.

11. Claims 3, 7-13 and 21-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter:

The recitations of the specific features of the coupling assembly in claims 37 and 40 including especially the construction of the second end includes ratchet washers that allow one-way movement only is not taught nor is fairly suggested by the prior art of record.

The recitations of the specific features of the windshield assembly in claims 38 and 41 including especially the construction of the hand guard element connected to the windshield panel is not taught nor is fairly suggested by the prior art of record.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614.

The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

• Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1134.

Lori L. Coletta  
Examiner  
Art Unit 3612

  
Lori L. Coletta

May 21, 2003